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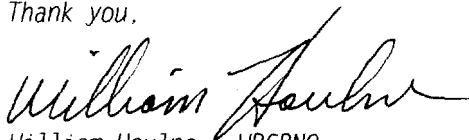
January 2, 1998

Office of the Secretary
Federal Communications Commission
1919 M Street, room 222,
NW, Washington, DC 20554.

Mr. Secretary,

I humbly and respectfully request acceptance of this late filing of a response to RM-9196. I am including, with the original, nine copies of the response for circulation to the Commissioners and appropriate departments and staff.

Thank you,



William Houlne, WB6BNQ
2732 Grove Street
National City, CA 91950-7605

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Opposition to the ARRL Proposal RM-9196

submitted September 23, 1997

January 2, 1998

By William Houlne - WB6BNQ

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TO: The Federal Communications Commission (FCC), Commissioners, and Staff

Again I find myself having to controvert ill conceived and inappropriate proposed legislation. This proposal is fraught with miscalculations, innuendos, and assumptions that have no basis in fact and only serves to bolster the worthiness of RM-9196. Furthermore, the necessity of the proposal is unwarranted in that "THE COMMISSION" has only to make a mere change to a "FORM" to implement more precise control over securing a physician's signature to deter fraudulent submissions. No substantive reason can be found for a rule change.

RM-9196 paragraph one states that the ARRL receives numerous, regular complaints of abuse of the Commission's policies governing administration of telegraphy examinations for the disabled. I am not sure what a "regular complaint" is as opposed to any other type of complaint. However, I do know that the slippery term "numerous" does not quantify an issue. Although not stated, the ARRL relies upon general sentiment to place the blame for the abuse with the applicant. One could equally draw the conclusion that the abuse is with those who conduct the examination.

RM-9196 paragraph two refers to "SEVEN" years of experience with the waiver process. This is very interesting because the ability to obtain a waiver on the telegraphy has been around for decades, apparently the ARRL is unaware of this. Is it only in the last seven years that a few fraudulent waivers may have passed through the system? I hardly think so! The ARRL states that "large numbers" of individuals have fraudulently abused the waiver process, but offers no valid evidence.

RM-9196 paragraph three was constructed either out of ignorance of mathematics or by design to draw the reader into making snap judgements from irrelevant data. Statistical mathematics is generally used to obfuscate the true nature of the sampled data and bolster some point of interest and make it appear to have more significance than it would otherwise have. This paragraph attempts to quantify statistical evidence of abuse, unfortunately, there are no relevant facts presented. How many people were involved in the 26,665 examination elements tested in 1996? The fact that 5,674 of the 6,098 sessions had license upgrade elements administered is irrelevant. This does

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not tell us the number of upgrades that involved telegraphy. The statement "8 PERCENT of upgrades involving telegraphy involve a medical exemption" is extremely misleading. "8 PERCENT" of what total number ? In which year or is that for all "SEVEN" years ? Out of "8 PERCENT" what percentage is considered fraudulent ? The ARRL totally negates their paragraph by admitting that there is no way to quantify any data about fraudulent applications. So, why does the ARRL confuse the issue with irrelevant information ?

If concrete facts exist to support the ARRL's claims, they would have brought this to the attention of the Commission "during" the seven-year period. If, in fact, such evidence existed and was not reported, then the ARRL has become an "ACCESSORY AFTER THE FACT," not to mention all the VECs and VEs that have provided these facts. To my knowledge nothing would prevent a VEC or VE from refusing to give an examination, if that examiner truly felt that there was good reason to question the validity of presented documents. To do anything less would be dereliction of duty.

RM-9196 paragraph four personally affronts my sense of decency in suggesting that the Amateur Community, as a whole, make disabled Amateurs feel as "Second Class" citizens. In my 35 years as an Amateur Radio Operator, I have never heard another Amateur treat or comment about a disabled Amateur in a derogatory manner that would make them feel like second class citizens. The ARRL owes the Amateur Community an apology.

RM-9196 paragraph seven suggests that flashing lights and vibrating pads could be used along with pauses between sentences, phrases, words, and/or characters to provide a disabled person the opportunity to try the test. Are these people serious ? Circuitry responding to telegraphy could trigger a light for those that cannot hear and is the only worthwhile part of this paragraph. However, the vibrating pad and, in particular, the idea of pauses after each character is carrying it too far. If you have to pause after each item or character in a telegraphy test, then how do you justify the speed requirement ? How do you justify having the telegraphy test at all ?

RM-9196 paragraph ten goes beyond ordinary reasoning in suggesting that a VEC is as competent as a physician in determining one's medical condition. The

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Commission has the right to inquire as to the validity of a legal document, but does not have the authority to question the physician's judgement nor the right to demand medical information. The idea of the Commission conferring legal authority to the VEC is totally outside the scope of the Commission's legitimate powers.

All that is needed to resolve the issue is for the Commission to make an administrative modification, NOT A RULE CHANGE, to the certification process for the telegraphy waiver. Create a "NEW FORM" where one side is a detailed explanation and set of instructions to both the applicant and the certifying physician. The other side is composed of a mostly blank page for the physician to describe, in plain language, a detailed description of the disability and how it relates to the applicant being unable to take the telegraphy test. At the bottom of this side is a blocked area stating "... that under a penalty of perjury ..." (If that is applicable), a signature line, a physician license number line and state that issued the license, and finally a line for the date signed.

This seems to be more than adequate and allows for a detailed medical explanation without violating privacy or confidentiality. Additionally, the physician would have to give the "FORM" more than just a passing glance by having to describe, in detail, the disability. This allows for an orderly inspection by the VEC team. Furthermore, the Commission could require that the 610 form and the physician form be forwarded to the Commission for inspection and inclusion into the Commission's files before issuing the license or upgrade. A simple administrative change without the need for all the man hours wasted in dealing with this proposal and the process of changing the rules and regulations.

What concerns me is a pattern that is developing with the "RM's" being submitted by the ARRL. I was told by FCC staff that the Commission looks toward the "Large Clubs and Organizations" to bring forward "Proposals," whereas, an individual submitting a request would be considered with less interest. The assumption being large clubs indicate acceptance by the Amateur Community as a whole. The ARRL claims to be the national representative of

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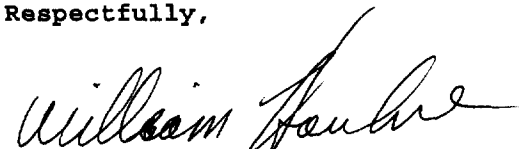
the Amateur community, yet they can only truly claim to represent about 1/4 of the total. This, in no way, represents the whole Amateur community, nor, in any manner demonstrates acceptance by the Amateur community as a whole. Instead, they are composed of a small group, relative to the whole community, of like-minded individuals and therefore falls under the definition of "Special Interest" representation.

Recent submissions by the ARRL (this one included) have clearly demonstrated the organization's inability to cope with the environment that it claims to represent. These submissions, devoid of any legally sound basis, shows poor judgement, and misguided and unreasonable thinking. For the Commission to accept and act upon such proposals, in view of the above facts, defies all reasonable objective standards. To reject, out of hand, other proposals, no matter how well conceived, in favor of such precarious submissions is clearly discriminatory and an abuse of discretionary power.

The Commission's apparent acceptance of the ARRL as an embodiment of the community's perspective is totally without merit. Such action, by the Commission, creates an unbalanced representation, fosters ill-will, and impedes the orderly construction of worthwhile ideas and proposals.

Accordingly, I put forth that the proposal, RM-9196, affords no showing of community acceptance, clearly contains no substantive facts, is frivolous in nature and should be dismissed.

Respectfully,



William Houlne, WB6BNQ

2732 Grove Street

National City, CA 91950-7605